

REMARKS

The Examiner has stated that the Declaration under 37 CFR 1.131 filed on April 15, 2009, was ineffective to overcome the Okawa reference. Specifically, the Examiner states: 1) the submitted declaration does not specifically allege that the acts relied upon to establish the date prior to the Okawa reference were carried out in the United States, a NAFTA country or a WTO member country; and 2) the previously submitted declaration allegedly “does not show possession of the claimed invention, namely a process of making aliphatic polyester multifilament crimped yarn by crimping drawn multifilament fiber in a crimp-providing apparatus that utilizes heated air at 120 - 170°C.” Action dated July 28, 2009, par. 3.

Accordingly, applicants have provided another Declaration under 37 CFR 1.131. This declaration supplements the previous declaration and includes an additional data sheet. As described in the declaration, the data sheet further describes the process conditions that were used to produce the yarns described in the test reports submitted with the previous declaration. The submitted data sheet shows that the yarns were prepared utilizing “a process of making aliphatic polyester multifilament crimped yarn by crimping drawn multifilament fiber in a crimp-providing apparatus that utilizes heated air at 120 -170°C.” For example, the report states that processes utilized “heated air” as the crimp fluid and utilized a nozzle temperature of 145°C or 143°C. Further, in the declaration the inventors state that all acts relied upon to establish the date prior to the Okawa reference were carried out in Japan, a WTO member country, prior to April 10, 2002.

Accordingly, this declaration establishes that before April 10, 2002, the critical date of the Okawa reference, the inventors invented a method of producing an aliphatic polyester multifilament crimped yarn that exhibits a melting point equal to or higher than 130°C, a crimp elongation rate of 3-35% after being processed with boiling water, and a breaking strength of 1-5 cN/dectex. This method involves drawing a non-drawn yarn including a biodegradable polymer containing aliphatic polyester as a main component via two-step drawing processes. The first drawing step involves

drawing the non-drawn yarn in a range of 1.01-3 times its original length. The second drawing step involves further drawing the drawn yarn in a range of 1.01-3 times its length, resulting in a total drawing scale of 1.02-9 times the original length. The drawn multifilament fiber is crimped using a crimp-providing apparatus that utilizes heated air at a temperature in a range of 120-170°C to produce a multifilament crimped yarn. A multifilament crimped yarn produced by this method exhibits excellent qualities as a yarn used in making a biodegradable carpet pile.

Claims 25 and 27-29 stand rejected under 35 USC 103(a) as being unpatentable over Okawa in combination with O'Donnell. This rejection is respectfully traversed.

By submitting the Declaration, the inventors of this application have shown that they were in possession of a method of producing an aliphatic polyester multifilament crimped yarn as now recited in claim 25 prior to April 10, 2002, the publication date of the Okawa reference. Accordingly, this Declaration removes the Okawa reference as a prior art reference against the pending claims of this application. O'Donnell alone fails to disclose or suggest the claimed invention. Accordingly, this obviousness rejection should be withdrawn.

In view of the above, each of the claims in this application is in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **Docket No. 360842009711**.

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Respectfully submitted,

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